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Briefing Report to the Permanent Subcommittee on Investigations, Committee on Governmental Affairs, United States Senate

December 1986

LABOR LAW

Criminal Investigations of Mr. Jackie Presser and Other Teamsters Officials

GAO/HRD-87-25BR

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Human Resources Division

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December 11, 1986

The Honorable William V. Roth Jr., Chairman
The Honorable Sam Nunn, Ranking Minority Member
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
United States Senate

This briefing report is in response to your July 25, 1985, letter and later discussions with your offices relating to the Jackie Presser case. Mr. Presser has been president of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America Union (Teamsters Union) since 1983; he has also been secretary-treasurer of Local 507 since 1972. You expressed concern that the Department of Justice may have rejected recommendations of its prosecutors and a federal grand jury in Cleveland, Ohio, in declining to prosecute Mr. Jackie Presser for allegedly authorizing payments to employees at Teamsters Union Local 507 in Cleveland who received payments but who performed little or no work, "ghost workers." The Department of Labor's investigators developed the case against Mr. Presser initially and then referred it to Justice.

The Subcommittee also expressed concern about a lack of coordination in the investigation of Mr. Presser and other labor-management investigations. The coordination in question was between Labor and Justice, between Justice officials in Washington and prosecutors and investigators in the field, and between Justice and the Federal Bureau of Investigation (FBI). You asked that we review Labor's and Justice's handling of the ghost-workers case and the coordination between the federal agencies on the case.

In subsequent discussions with the Subcommittee's office, we were asked to concentrate our review on 13 additional federal investigations involving Mr. Presser or other Teamsters Union officials. People had alleged to the Subcommittee that the government's handling of these cases may indicate either a pattern showing Justice's lack of interest in indicting Mr. Presser and other Teamsters Union officials or a lack of coordination between the agencies involved in the ghost workers and the other 13 cases. We also agreed to obtain cost estimates from the agencies and courts involved for the ghost workers and other cases.

According to Justice officials, the Department had investigated and prosecuted many other Teamsters Union officials, and obtained convictions on a number of cases. We did not review Justice cases involving these other officials because the Subcommittee specifically requested that we review the 13 cases mentioned on pages 7 and 8 of this report and described in appendix II.

This briefing report details the results of our review, done between August 1985 and June 1986, and expands on the testimony that we presented before the Subcommittee on May 9, 1986, in its hearings on the government's handling of the ghost-workers case.

Labor's Cleveland and Detroit staffs did the investigations and audits of the ghost workers and other cases we were requested to review. We did our work primarily at Labor and Justice, where we reviewed records and documents on the cases and interviewed knowledgeable officials. At Labor, this included work at the Office of the Inspector General and the Office of Labor Management Standards (formerly the Labor-Management Services Administration) in Washington and field offices in Cleveland and Detroit. At Justice, this primarily included work at the Criminal Division in Washington. We also visited Justice's strike force office in Cleveland. In addition, we interviewed former strike force and Labor officials who worked on these cases. We obtained cost data from Labor, Justice, and a federal district court.

Certain limitations had an adverse impact on our work, such as limited access to key Justice and FBI officials and documents because of an ongoing Justice and grand jury criminal investigation into the handling of the Jackie Presser investigation. As a result, we were not able to fully achieve our objectives: obtaining complete information and data on the ghost workers and other cases and on the coordination of federal agencies involved in these cases. We were, however, able to obtain considerable data and information on these cases from our review of the available records and interviews with Labor and Justice officials, except for six key Justice officials, involved in the cases. The following is a summary of our findings:

-- The dispositions of the 13 cases did not support the allegations to the Subcommittee that Justice had shown a lack of interest or desire to indict Mr. Jackie Presser or other Teamsters Union officials. Rather, we noted several actions by Justice and the courts on Labor's investigative findings. In some cases, indictments were obtained, trials held, and fines and sentences imposed. In other cases,

prosecution was not pursued because of decisions made at the local level or by Justice officials in Washington. Appendix II of this report includes detailed summaries of the cases.

-- Investigators and attorneys we interviewed told us that coordination between Labor and Justice was very good until the late stages of the ghost-workers case, when Labor officials became dissatisfied. The head of the Inspector General's Office in Cleveland told us that Cleveland strike force attorneys were instructed by Justice officials in Washington not to consult with him during the final stages of the case. In July 1985, Justice decided not to prosecute Mr. Presser as part of the ghost-workers case.

With regard to costs, we sought data from Labor, Justice, the FBI, and a federal district court. As of August 1, 1986, we had received estimated costs of $1.1 million on the investigations from Justice, Labor, and the federal district court. (We did not verify the cost data provided to us.) The FBI had not provided cost information, explaining that it was not part of the standard field office collection system.

In April 1986, Justice reopened the ghost-workers case and grand juries were convened in Cleveland and Washington, D.C., to hear testimony and evidence against Mr. Presser and others. On May 16, 1986, a Cleveland grand jury indicted Mr. Presser and two other Teamsters Union officials on various criminal charges, including embezzling about $700,000 of union funds. On May 15, a Washington, D.C., grand jury indicted an FBI agent with five counts of violating the false statement statute (18 U.S.C. 1001) for making false statements to Justice officials concerning the case. According to Justice officials, the trial against the FBI agent is scheduled to start on January 12, 1987; no date has been set for Mr. Presser and the other defendants' trial.

As you requested, we did not obtain official comments from Labor, Justice, or the FBI on a draft of this report. However, Labor, Justice, and FBI officials were given an opportunity to review a draft of this report and provide oral comments that were considered in making the report final.

As arranged with your offices, unless its contents are publicly announced earlier, we plan no further distribution of this briefing report until 30 days from its issue date. At that

time, we will send copies to the Attorney General, the Director of the FBI, the Secretary of Labor, and other interested parties. We will make copies available to other parties on request.

Should you need additional information on the contents of this document, please call me at 275-5451.

Sincerely yours,

Franklin A. Curtis

Franklin A. Curtis
Associate Director

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ABBREVIATIONS

ERISA	Employee Retirement Income Security Act of 1974
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
LMRDA	Labor-Management Reporting and Disclosure Act of 1959
Teamsters Union	International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America Union

CRIMINAL INVESTIGATIONS OF

MR. JACKIE PRESSER AND OTHER TEAMSTERS OFFICIALS

BACKGROUND

By letter, dated July 25, 1985, the Chairman and Ranking Minority Member of the Senate Permanent Subcommittee on Investigations expressed their concern to us that the Department of Justice had rejected recommendations of Justice's prosecutors and a federal grand jury in Cleveland, Ohio, in July 1985. At that time, Justice declined to prosecute Mr. Jackie Presser for allegedly authorizing payments to "ghost workers," persons who received payments but performed little or no work. Since 1983, Mr. Presser has been president of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America Union (Teamsters Union); since 1972, he has been the secretary-treasurer of Teamsters Union Local 507 in Cleveland. The Department of Labor's investigators developed the case against Mr. Presser initially and then referred it to Justice.

The Subcommittee's letter also expressed concern about a lack of coordination in the investigation of Mr. Presser and in other labor-management cases. The lack of coordination referred to was between Labor and Justice, between Justice officials in Washington and prosecutors and investigators in the field, and between Justice and the Federal Bureau of Investigation (FBI). The Subcommittee's letter asked us to independently develop information on these matters as they allegedly evolved in the government's handling of the Presser investigation.

In later discussions with the Subcommittee's office, we were asked to concentrate our review on 13 additional federal investigations involving Mr. Presser and other officials of the Teamsters Union, as well as pension plan and health and welfare fund officials. Several of the cases involved audits of Teamsters Union locals, and some were conducted to determine whether alleged criminal violations had occurred. The following are the additional cases we were requested to review (with the time period for each review):

1. William Presser/Ohio Teamster Journal (1970-71)
2. William Presser/Misuse of Travel Funds (1970-73)
3. Nicholas Francis (1970-72)
4. Audit of Teamsters Local 299 in Detroit (1970-73)
5. Audit of Teamsters Local 507 in Cleveland (1973-74)

6. Cook United Corporation (1974-77)

7. Gifts of Bally Stock to the William Presser Family (1975-77)

8. Hoover-Gorin (Cleveland Investigation) (1981-82)

9. Front Row Theatre (1982)

10. Management of Housing for Teamsters Retirees (1982)

11. Hoover-Gorin (New York Investigation) (1973)

12. Frank Fitzsimmons (Los Angeles Investigation) (1972-73)

13. John Trunzo/Red Oxyer (1976-77)

The Cook United Corporation (No. 6) and the John Trunzo/Red Oxyer (No. 13) cases, mentioned as separate cases by the Subcommittee, were investigated and handled by Labor as a single case; we have also treated them as a single case. In addition, we found only limited information for two other cases, Hoover-Gorin (New York investigation) (No. 11) and Frank Fitzsimmons (Los Angeles investigation) (No. 12), and were only able to prepare short summaries on these cases. Therefore, the 13 cases identified by the Subcommittee were reduced to 10 for our review.

According to the Subcommittee office, these cases involved alleged criminal violations for which no indictments were returned. People also alleged to the Subcommittee that these cases might have indicated either a pattern showing Justice's lack of interest in indicting Mr. Jackie Presser and other Teamsters officials or a lack of coordination between the agencies involved in the ghost workers and the other identified cases. The Subcommittee staff also requested that we develop cost estimates for the federal government's investigation of the ghost workers and the other investigations.

This briefing report details the results of our review, done between August 1985 and June 1986, and expands on the testimony we presented at the Subcommittee's hearings on May 9, 1986.[1] The report points out that, despite certain limitations on our work, we were able to obtain considerable information on (1) the variety of actions taken by Justice and the courts on

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[1]Department of Justice's Handling of the Jackie Presser Ghost-Workers Case: Hearings Before the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs. 99th Cong., 2nd Sess. 61-74 (1986).

Labor's investigative findings, (2) the coordination, or lack of coordination, between Justice and Labor, and (3) federal agencies', except the FBI's, and the federal court's estimated costs.

At the request of the Subcommittee's office, we did not obtain official agency comments on this briefing report. However, Labor, Justice, and FBI officials were given an opportunity to review a draft of this report and provide oral comments, which were considered in the final version of the report.

In April 1986, Justice reopened the ghost-workers case and grand juries were convened in Cleveland and Washington, D.C., to hear testimony and evidence against Mr. Presser and others concerning payments to ghost workers and allegations of further criminal wrongdoing. On May 16, 1986, the Cleveland grand jury indicted Mr. Presser and two other Teamsters Union officials on charges of embezzling more than $700,000 from Teamsters Local 507 and Bakery and Tobacco Workers Union Local 19, both in Cleveland. This was done through the ghost-workers scheme in violation of the Labor-Management Reporting and Disclosure Act (LMRDA) of 1959, as amended. Mr. Presser was also charged with other labor racketeering activities, including filing false union and pension reports, in violation of LMRDA and the Employee Retirement Income Security Act (ERISA) of 1974, as amended, and conspiring to commit racketeering activities in violation of the Racketeer Influenced and Corrupt Organization (RICO) statute.

In addition, on May 15, 1986, a Washington grand jury indicted an FBI special agent, Robert S. Friedrick, with five counts of violating the false statement statute (18 U.S.C. 1001) for making false statements to Justice officials concerning Mr. Presser and the two other defendants.

According to Justice officials, the trial of the FBI agent is scheduled for January 12, 1987; no date has been set for Mr. Presser and the other defendants.

Enforcement of Labor Laws

Labor has primary responsibility for administering and enforcing several laws that affect the rights, pensions, and welfare of millions of union members and other workers in the United States. One is LMRDA, which applies to labor organizations' (union) members and officials, as well as employers, labor relations consultants, labor unions, and surety (bonding) companies. LMRDA protects the rights of union members from improper and corrupt practices by union officers and representatives. Labor is also responsible for carrying out the provisions of ERISA, which regulates private pension and welfare plans; its purpose is to make sure that employees who are covered by private pension and welfare plans receive benefits

from these plans. Labor shares responsibility for enforcing the criminal provisions of both acts with Justice. (See app. III for a description of Labor's, Justice's and the FBI's responsibilities under the acts.)

Labor must also refer potential violations to Justice, which has exclusive responsibility for interpreting and enforcing the provisions of the Labor-Management Relations Act of 1947, as amended (29 U.S.C. 141-197), commonly known as the Taft-Hartley Act. The act makes it unlawful for any employer or person acting for an employer to pay, or agree to pay, money or other things of value to any labor union, any officer or employee of a labor union, or any representative of any of his or her employees; conversely, the act forbids an employees' representative to accept or agree to accept money or anything of value from an employer.

The ghost-workers case and the other cases we reviewed primarily involved alleged violations of LMRDA, ERISA, and the Taft-Hartley Act; these alleged violations were investigated by Labor and Justice as part of the federal government's War Against Organized Crime program.

War Against Organized Crime

In 1967, the federal government established its War Against Organized Crime program, under the direction of Justice's Criminal Division. Under this program, Justice established organized crime strike forces, within its Criminal Division's Organized Crime and Racketeering Section, to launch a coordinated attack on organized crime. These strike forces, which are directed by strike force attorneys, utilize staff and resources from other federal agencies, such as Labor, to perform their investigative work.

From 1970 to 1978, personnel from Labor's former Labor-Management Services Administration (now the Office of Labor Management Standards) were responsible for carrying out Labor's work on the strike force program. Since 1978, Labor's work in the strike force has been carried out by its former Office of Organized Crime and Racketeering (now the Office of Labor Racketeering) within the Office of the Inspector General. Labor staff operate under the direction and supervision of the Inspector General. In this role, Labor has investigated organized crime's influence and impact on labor organizations, employee organizations, employee and union benefit plans, and other labor-management activities. Labor personnel have coordinated with, and presented the results of their investigations to, Justice's strike force and to U.S. attorneys for prosecutive consideration.

Labor's staffs in Cleveland and Detroit performed the investigations and audits of the ghost workers and other cases we

reviewed. The audit and investigative results of these cases were considered for prosecutive merit by Justice's strike force attorneys in Cleveland and Detroit and, in some cases, by the Criminal Division in the Washington headquarters.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our review were to (1) obtain information and data on Labor's investigations and Justice's actions on 13 selected cases to determine if there is a pattern to case dispositions, (2) obtain from the involved agencies their costs for these cases and the ghost-workers case, and (3) assess the coordination of federal agencies on the ghost workers and other cases. We performed our work primarily at Labor's and Justice's Washington offices, Labor's Cleveland and Detroit offices, and Justice's strike force office in Cleveland. Additional contacts were made at the FBI and the Administrative Office of the U.S. Courts in Washington, and U.S. District Courts in Cleveland (Northern District of Ohio) and Chicago (Northern District of Illinois).

At our request, Labor searched its records for case files and other related materials. We reviewed the materials provided us, along with documentation on the ghost-workers case, which the Subcommittee had previously obtained from Labor. In addition, we discussed the cases with more than 20 current and former officials (in Washington, Labor's Office of the Inspector General, Office of Labor-Management Standards, and Office of the Solicitor; and in Cleveland and Detroit, field offices). We also asked Labor officials to estimate Labor's costs for the ghost workers and other cases.

At Justice, we reviewed the case materials made available to the Subcommittee staff; we also interviewed 10 current or former strike force and Criminal Division attorneys who were involved in these cases. Justice would not permit us to interview six other Cleveland strike force and Washington Criminal Division officials active in the ghost-workers case; this was because of the Office of Professional Responsibility's criminal investigation of the Department's handling of that case. The six Justice officials were the following: in Cleveland, the chief strike force attorney, the strike force attorney, and a former strike force attorney; in Washington, the deputy assistant attorney general of the Criminal Division, and the chief and deputy chief in the Organized Crime and Racketeering Section in the Criminal Division. We asked Justice to estimate its costs for the ghost workers and other cited cases.

We discussed the availability of case information and costs with officials of the Administrative Office of the U.S. Courts in Washington; we obtained court records from the U.S. District Court in Cleveland. In addition, we asked the Clerk of that court to estimate the court's costs for the cases that were

handled in Cleveland. We did not verify the cost figures provided by Labor, Justice, and the court because the costs cited were estimates, and sufficient documentation was not available for us to adequately review the estimates.

The case summaries that we prepared, from our review of available documentation and interviews with individuals who had been involved in the cases, are included in appendix II of this report. We are unable to provide complete information on all the cases, however, for the reasons discussed later.

It should be noted, nevertheless, that according to Justice officials, the Department had investigated and prosecuted many other Teamsters Union officials, in addition to those in the 13 cases covered in our review; Justice had obtained convictions of a number of officials, including two former presidents of the Teamsters Union. We did not review Justice cases involving these other Teamsters officials because the Subcommittee specifically requested that we review the 13 cases mentioned on pages 7 and 8 and described in appendix II.

Limitations on GAO's Work

Certain limitations had an adverse impact on our work, for example:

Limited access to Justice records and officials

We initially met with Justice officials in November 1985. At that time, Justice would not provide us access to all of its records or officials on the ghost workers or other cases. However, in January 1986, Justice did give us access to its records on these cases, permission to contact current or former Justice officials involved in the cases (other than the ghost-workers case), and assistance in locating those officials.

Throughout our review, however, as mentioned earlier, Justice denied us permission to interview six key officials who had been involved in the ghost-workers case, including the strike force attorneys in Cleveland and officials in the Criminal Division in Washington. In a February 5, 1986, letter to us, a deputy assistant attorney general of the Criminal Division told us that, after consulting with the Department's Office of Professional Responsibility, it was determined not appropriate to authorize new interviews of these officials, who had been previously interviewed by staff of the Senate Permanent Subcommittee on Investigations. As a result, we are unable to provide the views of these officials as to the effectiveness of coordination for, or the outcome of, some of the additional cases.

Restricted access to Labor's records on the ghost-workers case

Initially, the inspector general at Labor agreed to give us access to Labor's files and other records on the ghost-workers case. In August 1985, a district court judge in Ohio directed that an investigation be made into the handling of the ghost-workers case; therefore, the inspector general denied us access to Labor's records. We were able to obtain the Labor records on the case from the Senate Permanent Subcommittee on Investigations' files.

Lack of cooperation by the FBI

When we notified the FBI of our planned review, FBI officials told us that they could not cooperate or meet with us because Justice was conducting a criminal investigation into the handling of the ghost-workers case. An FBI official also stated that standard FBI policy prohibits the discussion of pending matters, and the investigation was ongoing at the time we made initial contact with the FBI. On March 7, 1986, however, we asked the FBI to tell us which of the other cases it had been involved in and to estimate its costs for the ghost workers and the other cases.

A second FBI official told us that the agency does not maintain cost information for these kinds of cases. A third FBI official stated that the lack of cost data on the cases was consistent with the FBI's standard field office data collection, in that manpower figures are maintained by case classification rather than individual cases. The official also said that the ghost-workers investigation was exclusively a Labor investigation in coordination with the Cleveland strike force. He said the FBI had never initiated any investigation on the alleged violations that resulted in the indictment of Jackie Presser on May 16, 1986. According to this official, the U.S. Attorney's Manual had delegated Justice's authority to the U.S. attorney or U.S. strike force to allow Labor to conduct investigations, such as the Jackie Presser case, within the primary jurisdiction of the FBI, without notifying Justice or FBI management personnel. After we completed our review, the FBI informed us, on August 5, 1986, that we could have access to some of its case files information.

Restrictions on access to, and use of, grand jury information

Rule 6(e) of the Federal Rules of Criminal Procedure prohibits, with limited exceptions, disclosing matters occurring before the grand jury. Because the ghost workers and some of the other cases under review involved grand jury proceedings,

both Labor and Justice informed us they had to excise portions of the information from the files that they provided us.

Lack of complete documentation on some cases

All but three of the additional cases we were asked to review by the Subcommittee dated back to the early and mid-1970's. As a result, complete documentation for all cases was not available; some records could not be found or had been destroyed. For example, according to Labor officials, the investigative files on the Nicholas Francis case (No. 3) were sent to storage in 1976 and destroyed in 1982. As a result, we had to obtain information from court records and interviews with Labor and Justice participants. In addition, Justice's file for the Frank Fitzsimmons (Los Angeles investigation) case (No. 12) did not include an investigative report, and the documents provided us dealt mainly with leaks of information that occurred during the case. Labor had no documents on the case. Likewise, Labor and Justice had no documents on the Hoover-Gorin (New York investigation) case (No. 11).

In addition, because of the length of time that had passed since the investigation, some of the Labor and Justice officials and former officials we interviewed had trouble remembering complete details of the cases.

RESULTS

As noted earlier, certain limitations had an adverse impact on our work. As a result, we were not able to fully achieve our objectives of obtaining complete information and data on the ghost workers and other cases and on coordination of all the federal agencies involved in these cases. Despite these limitations, we obtained considerable information on the cases from our review of available records and discussions with Labor and Justice officials involved in the cases. We found that

-- there was no pattern showing Justice's lack of interest in indicting Jackie Presser and other Teamsters officials involved in the cases under review;

-- according to the attorneys and investigators involved in the cases, early Justice and Labor coordination was good, but the investigators also told us that coordination deteriorated during the late stages of the ghost-workers case; and

-- the federal government has spent more than $1 million in the investigations of Jackie Presser and other Teamsters officials.

Review of Selected Cases Shows No Pattern of Reluctance to Prosecute by Justice

Our review of the disposition of the investigations does not support allegations made to the Subcommittee that there was a pattern of lack of interest in Justice's indicting Jackie Presser or other Teamsters officials. Rather, we noted several actions by Justice and the courts, based on the findings developed by Labor investigators. In some cases, a decision not to prosecute was made by the local strike force attorneys or by Justice officials in Washington; in other cases, indictments were obtained, pleas entered, trials held, fines and jail sentences imposed, or indictments dismissed, for example:

-- Case No. 1 (William Presser/Ohio Teamster Journal). In this early 1970's investigation, William Presser (Jackie Presser's father) and another Teamsters official were indicted for accepting payments from employers for advertisements in a union journal, in violation of the Taft-Hartley Act. Both pleaded guilty. William Presser was fined $12,000, and another union official was fined $24,000 (see pp. 24-27).

-- Case No. 2 (William Presser/Misuse of Travel Funds). In another early 1970's case, William Presser was indicted for embezzling about $3,500 of union funds and falsifying union reports in violation of LMRDA. He was acquitted by the trial judge, who stated that the government had failed to prove its case (see pp. 27-30).

-- Case No. 4 (Audit of Teamsters Local 299 in Detroit). In a case dealing with an alleged embezzlement of $2,500 from Teamsters Local 299 in Detroit, Justice's Criminal Division declined to prosecute Richard Fitzsimmons, son of the late Frank Fitzsimmons, a former president of the Teamsters Union, because of problems of insufficient evidence and the small amount of money involved (see pp. 32-36).

-- Case No. 5 (Audit of Teamsters Local 507 in Cleveland). In this case, involving the activities of Teamsters Local 507 in Cleveland, the head of the Cleveland strike force directed that the investigation be closed because no actionable violations of labor laws were found (see pp. 36-38).

In addition to the above cases, two other cases were investigated by Labor and prosecuted by Justice as part of the Jackie Presser ghost-workers investigation. In March 1983, John Nardi Jr., a former business agent for Teamsters Local 507 in Cleveland, pleaded guilty to two criminal charges, including

embezzling about $100,000 in Local 507's assets by accepting payments for work not performed (i.e., ghost-worker payments), a violation of LMRDA; these payments were allegedly authorized by Jackie Presser. Sentencing of Mr. Nardi was deferred, pending his cooperation with the government.

In the second case, Allen Friedman, an uncle to Jackie Presser and a former business agent of Local 507, was found guilty (in a jury trial, November 1983) of embezzling $165,000 from Local 507; he was sentenced to prison for accepting payments, allegedly authorized by Jackie Presser, in violation of LMRDA.

According to Justice and Labor records, at the request of Justice officials, the charges against Messrs. Nardi and Friedman were dismissed in October 1985. This occurred shortly after Justice declined to indict Jackie Presser in connection with the ghost-workers case. At that time, John Nardi Jr. had not been sentenced, while Allen Friedman had served 11 months of his 3-year sentence. Because we did not have access to key Justice and FBI officials, we are unable to comment further on the cases that resulted from the Jackie Presser ghost-workers investigation.

Appendix II includes a detailed summary of each of the cases we reviewed, except for the ghost-workers case.

Early Labor and Justice Coordination Good, but Deteriorated During the Ghost-Workers Case

According to persons involved in the cases reviewed and available documents, coordination between Labor, Justice's Cleveland strike force, and the Criminal Division in Washington was good in the 1970's and early 1980's, but it deteriorated during late 1984 and 1985. Labor officials told us that they became dissatisfied with the way that Justice handled the ghost-workers case.

Coordination between Labor and Justice is necessary because of the shared criminal enforcement responsibility. In addition, under the federal government's organized crime strike force efforts, Labor must coordinate with Justice and must obtain Justice's approval before opening an investigation. For the various laws Labor enforces (such as LMRDA and ERISA), it refers all potential criminal violations, such as alleged embezzlements of union or pension funds, to Justice's strike force or to U.S. attorneys for prosecutive consideration. As the government's chief law enforcement agency, Justice is solely responsible for prosecuting alleged violations of the criminal provisions of these acts.

To determine the adequacy of coordination efforts, we reviewed Labor and Justice records and documents relating to coordination in the ghost-workers case and additional cases. We also interviewed current and former Labor and Justice officials involved in the investigations except, as mentioned earlier, for six key Justice officials involved in the ghost-workers case. Labor investigators and Justice attorneys told us that

-- attorneys and investigators held discussions on the status and direction of these cases,

-- Labor's investigators provided copies of interview write-ups to the attorneys, and

-- a Labor employee was a member of the strike force.

Labor and Justice officials characterized the early coordination between the two agencies as "more than satisfactory" to "excellent." For example, the area administrator of Labor's Office of Labor Management Standards in Cleveland, who also served as the Labor representative to the Cleveland strike force through 1973, told us that the coordination between the area office and the strike force was "excellent." Likewise, the attorney who established the Cleveland strike force and served as its first chief attorney told us that the relationship with Labor was "very good."

Concerning the ghost-workers case, our interviews with Labor officials and review of records indicated that when the investigation started in 1982, there was good coordination between Labor's Office of Organized Crime and Racketeering in Cleveland and the Cleveland strike force. But in late 1984 and early 1985, the Cleveland office and Labor's inspector general became dissatisfied with the coordination on the case. For example, the head of Labor's office in Cleveland told us that, in April 1985, he became unhappy with the Cleveland strike force attorneys after they had returned from a meeting in Washington. At this meeting, Justice officials had instructed them not to consult with the head of Labor's Cleveland office during the final stages of the case, when considering whether to indict Jackie Presser. Labor officials told us that Labor and Justice usually consult on whether to indict.

The deputy inspector general, who was responsible for the ghost-workers case, visited Cleveland twice during 1984. He told us that he did so for the following reasons: he was concerned about the length of time that Justice was taking to decide whether to indict, and he also was concerned that Justice was not giving the case a high enough priority. The deputy inspector general also expressed concern about Justice's later decision to bypass part of Labor and deal directly with the inspector general on the matter. The inspector general told us

that Labor, having completed its work in November 1984, had done everything it could on the case, but Justice did not close the case until July 1985. He said that Justice and Labor could have resolved the case sooner if there had been more coordination between the two agencies. In addition, the inspector general told us that, at the time of the ghost-workers case, the FBI did not have a representative on the Cleveland strike force. Moreover, he said that Labor's inspector general's office in Cleveland had been hesitant to establish a relationship with the local FBI, citing the fact that the number of Labor's investigators in Cleveland, 6, was minimal compared with the FBI's 100 agents in Cleveland.

We are unable to provide the views of Justice and the FBI officials on coordination between the two agencies during the late stages of the ghost-workers case because Justice would not permit us to interview six key Justice officials who were involved in the case. Justice officials denied us access because of the ongoing criminal investigation into the handling of the ghost-workers case by Justice and the FBI.

Concerning coordination between Labor and the FBI, Labor's inspector general and his deputy advised us, in March and April 1986, that the two agencies were negotiating a memorandum of understanding. According to these officials, the memorandum would cover coordination and cooperation between the two agencies on investigations of labor union and labor management racketeering activities, including joint planning of goals and objectives, shared intelligence and joint investigations. The memorandum was signed on September 24, 1986.

Agency Cost Records for the Ghost Workers and Other Investigations Incomplete

Labor, Justice, and the FBI were involved in, and incurred costs for, the Jackie Presser ghost workers and other investigations. In addition, federal court costs were incurred for some of the cases. We asked each of the agencies involved to estimate its costs for the cases. As of August 1, 1986, we had received the following estimates, totaling $1,108,664, from Labor, Justice, and a federal district court: Labor, $691,369; Justice, $402,500; and U.S. District Court of Northern Ohio, $14,795.

These figures, however, do not represent the full cost of the ghost workers and other investigations. For example, Labor's figure includes only its Cleveland office costs; Justice's figure includes only salaries for attorneys working on the cases. The FBI's investigative costs are not included because officials said the FBI did not maintain cost data on these cases. Details of each of the estimates we received follow:

Labor

Within Labor, the Office of the Inspector General and the Labor-Management Services Administration were the organizational units primarily involved in the ghost workers and other investigations. We were told by officials of these offices that their units spent at least $691,369 on these investigations.

The Office of the Inspector General provided us with the costs incurred by its Office of Labor Racketeering in Cleveland for the overall investigation of Jackie Presser and others in a September 5, 1985, internal memorandum prepared by the head of the Cleveland office. This includes the work done in connection with the Hoover-Gorin (Cleveland investigation) (No. 8), Front Row Theatre (No. 9), and Management of Housing for Teamsters Retirees (No. 10) cases, and other aspects of the investigation. These include the cases against Teamsters Local 507 officials Allen Friedman and John Nardi Jr., related to embezzlement of Local 507 funds. According to the memorandum, the following costs, totaling $441,369, were incurred: salaries, $385,602; travel, $55,542; and services, $225.

The memorandum states that these figures were compiled from special agent monthly time reports, travel vouchers, and invoices for outside services rendered in connection with the investigation; salary costs were computed using the pay schedules in effect during the period of the investigation. The memorandum also states that the cost shown should be regarded as minimum costs of the investigation because other costs, such as overhead of collateral investigations conducted by other offices and services performed by the inspector general's national office, are not included.

Officials in the Office of Labor Management Standards' headquarters had no time records or case files from which to determine costs for the other cases. As an alternative, we asked the area administrator of the Cleveland office to provide us with an estimate of the costs for the investigations his office handled.

In an April 8, 1986, letter to us, the area administrator estimated that from 1969 to 1977 his office spent about $250,000 on six investigations (William Presser/Ohio Teamster Journal; William Presser/Misuse of Travel Funds; Audit of Teamsters Local 507 in Cleveland; Gifts of Bally Stock to the William Presser Family; John Trunzo/Red Oxyer; and Cook United Corporation). The letter stated that this estimate included salaries, travel expenses, and assistance provided by other government agencies, but not any costs of prosecution. He noted that he did not have any documentation on the actual costs of these investigations.

Justice

In a December 26, 1985, letter, the deputy assistant attorney general, Criminal Division, informed us that Justice spent an estimated $402,500 for the salaries of Justice attorneys who worked on the following investigations: ghost workers, $367,500; Front Row Theatre, $10,000; and Hoover-Gorin (Cleveland investigation), $25,000.

The figures do not include costs of the FBI, Labor, or other investigative agencies. We were told by an attorney in the Criminal Division that this figure is an estimate of the salary costs of two attorneys working for about a 3-year period. He further stated that Justice was unable to provide any meaningful cost figure for the other cases, most of which took place in the early 1970's.

The deputy assistant attorney general also noted, in his December 26 letter to us, that Justice had incurred salary costs of $45,000 to respond to congressional committee inquiries concerning the ghost workers and other cases. He said that this included the salaries of attorneys and paralegal personnel who compiled documents and answered requests for information about the investigations.

In an April 28, 1986, letter to us, the deputy assistant attorney general stated that Justice could not provide the costs of grand jury investigations involving the ghost workers and other cases that we had requested. He stated that because of the ongoing internal criminal investigation by Justice's Office of Professional Responsibility, it was impossible for the Department to supply us with such information at that time. With respect to the older cases, he said that the Department was not aware of any existing records that would yield meaningful figures relating to grand jury time or expenses.

FBI

On March 7, 1986, we requested cost information on the ghost workers and other investigations from the FBI. The FBI told us, on March 17, 1986, that our request was referred to Justice's Office of Professional Responsibility for response. Justice officials informed us, on April 29, 1986, that they did not have any problems with the FBI's providing us with cost information for the cases, other than the ghost-workers case. In subsequent discussion with an FBI official, however, we were told that the FBI did not maintain costs for these cases.

As we noted earlier (see p. 13), another FBI official also stated that the lack of cost data on the cases was consistent with the Bureau's standard field office data collection, in that manpower figures are maintained by case classification rather

than individual cases. The FBI official also told us that the ghost-workers investigation was exclusively a Labor investigation in coordination with the Cleveland strike force. He said that the FBI had never initiated any investigation on the alleged violations that had resulted in the indictment of Jackie Presser on May 16, 1986.

U.S. District Court

At our request, the Clerk of the District Court in Cleveland estimated that the court spent about $14,795 in salaries and related expenses (such as the costs of jurors) for the William Presser/Ohio Teamster Journal, William Presser/Misuse of Travel Funds, and Nicholas Francis cases, and for two cases that resulted from the ghost-workers investigation, the John Nardi Jr. and the Allen Friedman cases. The breakdown of costs, totaling $14,794.80, is as follows: William Presser/Ohio Teamster Journal, $87.48; William Presser/Misuse of Travel Funds, $3,264.37; Nicholas Francis, $125.07; John Nardi Jr., $194.91; and Allen Friedman, $11,122.97.

To arrive at these costs, the records of court activity for each of the cases identified were reviewed; the activity that took place on each case identified; and an actual or estimated amount of time expended by clerks, judges, courtroom deputies, court reporters, and others involved to complete that activity was developed by the Clerk. The costs included salary amounts in effect at the time of the case. In addition, where appropriate, actual or estimated salary costs for staff in the court's probation office for the investigation, supervision, and administration of these cases were included. The costs do not include other court-related costs, such as transcripts of court proceedings, the U.S. Marshals Service for serving warrants and accompanying the defendants to post-trial hearings, convening grand juries, and other operating expenses, such as rent, incurred by the court.

APPENDIX I

REQUEST LETTER

WILLIAM V. ROTH, JR., DELAWARE, CHAIRMAN
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United States Senate
COMMITTEE ON
GOVERNMENTAL AFFAIRS
SENATE PERMANENT SUBCOMMITTEE
ON INVESTIGATIONS
WASHINGTON, DC 20510

SUBCOMMITTEE:
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ELEANORE J. HILL, CHIEF COUNSEL TO THE MINORITY

July 25, 1985

The Honorable Charles A. Bowsher
Comptroller General of the United States
General Accounting Office
Washington, D. C. 20548

Dear Mr. Comptroller General:

As you know, the Senate Permanent Subcommittee on Investigations is directed to make inquiry into reported irregular practices in the labor-management field. The Subcommittee also has jurisdiction to review instances of reputed inefficiences in government operations.

For many years the Subcommittee has been active in carrying out its mandate in the labor-management field. Currently, for example, the Subcommittee is preparing to release a GAO report, written at our request, on the Department of Labor's oversight of the management of the Teamsters Central States Pension and Health and Welfare Funds (GAO/HRD-85-73, July 18, 1985). This report, which indicates that for the first time in its 30-year history the Pension Fund is being managed competently and according to established procedures, culminates a 10-year joint effort by the Subcommittee and GAO to monitor the effectiveness of the Labor and Justice Departments and the Internal Revenue Service in implementing ERISA, the Employee Retirement Income Security Act of 1974, to reform the Central States employees' benefit programs.

We are now interested in enlisting the assistance of GAO in another matter having to do with alleged irregulatories in the labor-management field; and with reputed inefficiencies in government operations. Reportedly, the Justice Department has rejected the recommendations of its prosecutors in Cleveland, as well as the recommendations of a federal grand jury in that city, and declined prosecution of Jackie Presser, President of the International Brotherhood of Teamsters, for alleged authorization of payment to "ghost employees." Labor Department investigators initially developed the case and referred it to the Justice Department. Labor Department agents were assigned to the Strike Force that investigated the allegations.

APPENDIX I

Preliminary information developed by the Subcommittee staff indicates a lack of coordination in labor-management investigations between the Labor Department and the Justice Department; between Justice Department officials in Washington and prosecutors and investigators in the field; and between the Justice Department and the Federal Bureau of Investigation.

Information has also been brought to our attention indicating an alleged sharp disagreement over substantive issues between the federal grand jury in Cleveland and the Justice Department in Washington.

We would like to request that GAO develop information on these matters, particularly as they reportedly evolved in the Presser investigations. Once the data is compiled, we would then request that GAO give the Subcommittee a briefing on its findings and discuss with us further appropriate action.

The Subcommittee staff has discussed this request with Raymond Kowalski of the Human Resources Division of GAO.

For further information on this request, your staff may contact Daniel F. Rinzel, Chief Counsel to the Majority (224-3721), and Eleanore J. Hill, Chief Counsel to the Minority (224-9157).

Sincerely,

Sam Nunn
Ranking Minority Member

William V. Roth, Jr.
Chairman

SUMMARY OF INVESTIGATIVE CASES ON MR. JACKIE PRESSER AND OTHER TEAMSTERS UNION OFFICIALS REVIEWED BY GAO

The Senate Permanent Subcommittee on Investigations asked us to prepare case summaries for 13 cases, which the staff identified, involving Mr. Jackie Presser (president of the Teamsters Union and secretary-treasurer of Local 507) and other Teamsters officials. Of the 13 cases we were asked to review, 2 cases, Cook United Corporation and John Trunzo/Red Oxyer, were considered by Labor as a single case so we have also treated them as such. We have provided only short summaries of two other cases, Hoover-Gorin (New York investigation) and Frank Fitzsimmons (Los Angeles investigation), because we found only limited information on these cases. They are included under the "Other Cases" caption.

The following is a brief summary of each of the cases primarily investigated by Labor's Labor-Management Services Administration (now the Office of Labor-Management Standards) in Cleveland and Detroit, and the inspector general's Office of Organized Crime and Racketeering (now Office of Labor Racketeering) in cooperation with Justice's Cleveland and Detroit strike forces.

CASE NO. 1--WILLIAM PRESSER/OHIO TEAMSTER JOURNAL (1970-71)

Case Initiation

On May 11, 1970, Labor initiated an investigation into employer contributions to the Ohio Teamster Journal, a publication sponsored by Joint Council No. 41 of the Teamsters Union, and into the possibility that the Journal was not actually published. The investigation was requested by the Cleveland strike force.

Case Investigation

The investigators reviewed annual reports submitted to Labor by Joint Council No. 41 from 1964 through 1969; they conducted interviews and mail inquiries involving about 450 Journal advertisers.

The investigation disclosed that, in November 1963, the late William Presser, president of Joint Council No. 41, designated James A. Franks to operate the Journal. Mr. Franks represented himself as public relations director of Joint Council No. 41; he solicited Journal advertisements from trucking

companies, firms relying on truck transportation, and nonunion employers. The investigation also disclosed that, at the time of solicitation, employers were given the impression that purchase of an advertisement would result in freedom from labor problems. The investigation determined that from 1964 through 1969, the Journal's total receipts were $594,398 and disbursements (all made to Mr. Franks) were $468,028. Full issues of the Journal were published in 1966 and 1970 with supplemental pages printed in 1968. Labor investigators found that there was no uniformity in the amounts employers paid for similar advertisements; the distribution was erratic, with some advertisers not receiving any copies of the Journal; and solicitations were made for special editions that were not published.

Case Disposition

On July 23, 1970, a federal grand jury in Cleveland, Ohio, returned a 24-count indictment against Messrs. William Presser and James Franks. They were charged with violating 18 U.S.C. 371 (conspiracy to commit an offense against the United States) and 29 U.S.C. 186(b) (a provision of the Taft-Hartley Act), which prohibits labor organizations' accepting payments from employers. At their arraignment, both pleaded not guilty to all counts.

On January 22, 1971, Mr. William Presser withdrew his plea of not guilty and, in U.S. District Court, entered a plea of guilty to 8 of the 23 counts involving acceptance of employers' payments. According to Labor documents on the case, the judge fined Mr. Presser $12,000 on February 22, 1971, but did not impose a prison sentence because of Mr. Presser's medical history. The judge also dismissed the remaining counts against Mr. Presser, except for the conspiracy count, which was left outstanding until the case against Mr. Franks was resolved and then dropped.

Mr. Franks withdrew his original plea of not guilty. On December 9, 1971, he pleaded guilty to all 24 counts and was fined $24,000. According to Labor records, the judge considered Mr. Franks' age and poor health, and imposed no prison sentence or probation.

On February 2, 1971, Mr. Franks was indicted in U.S. District Court in Chicago for failure to file income tax returns in violation of 26 U.S.C. 7203 (a provision of the Internal Revenue Code). Strike force attorneys in Cleveland hoped that this charge would pressure Mr. Franks into revealing what he did with the money he collected from the Journal advertisements. This did not occur and, on motion of the government, the Chicago

indictment was dismissed on December 10, 1971, following Mr. Franks' plea of guilty to all of the Cleveland charges.

Labor closed this case on December 15, 1971.

Discussions With Personnel Involved in the Case

We discussed the case with the Labor representative to the strike force, three Labor investigators, the head of the Cleveland strike force at the time of the investigation, and three strike force attorneys. Because this case was investigated more than 15 years ago, many of the officials we interviewed could not recall with certainty the specific details of the case.

The former Labor representative to the strike force told us that in late 1969 or early 1970, an audit performed by the Interstate Commerce Commission found that payments had been made by an employer to Joint Council No. 41. This information provided the basis for this case. The former representative also told us that all leads were pursued in Labor's investigation; the case was built on grand jury testimony; everyone involved was enthusiastic and anxious for success, and there was excellent coordination between the Labor investigators and the strike force attorneys, which the former representative attributed to the leadership of the strike force chief.

The former Labor representative also told us that Mr. Presser was charged with violating 29 U.S.C. 186(b) (a provision of the Taft-Hartley Act), a misdemeanor charge, and pleaded guilty to some of the counts he was charged with. The former representative said that he was disappointed with the charges in the case because, during the investigation, he was working under the assumption that Mr. Presser was going to be charged with extorting money from employers in violation of 18 U.S.C. 1951 (Hobbs Act), a felony charge.

The lead Labor investigator on the case told us that he thought Labor learned of the Journal scheme from an informant. He recalled that the investigators contacted employers who had purchased advertisements in the Journal, and determined that a shakedown had taken place. He told us that he was satisfied with everything about the case except the judge's sentence, which he believed was too lenient. Another investigator, who assisted on the case, told us that the review team had looked at everything and had received the full backing of the strike force attorneys. The third investigator could not provide any further details of the case.

The former strike force chief told us that this had been a strong case and that all leads were pursued in the investigation. He said that the relationship between the strike force and Labor was very good and that the Labor representative to the strike force was an excellent investigator who did outstanding work. He could not recall why the attorneys decided to pursue a Taft-Hartley Act charge rather than a Hobbs Act charge on this case. He commented that he did not believe that the fine imposed by the judge was sufficient.

The lead strike force attorney on the case told us it had started shortly after the Cleveland strike force was initiated, but he did not remember just how it started. He said that he did not believe they had developed as strong a case against Mr. William Presser as they had against Mr. Franks, but he thought that Mr. Presser would have been found guilty if the case had gone to trial. The attorney noted the excellent coordination between the strike force and the investigators during this time period.

Another attorney who worked on the case told us he did not remember if he, or someone else, drafted the prosecution memorandum on it, nor could he recall why it was decided to use a Taft-Hartley Act charge rather than a Hobbs Act charge. He said that his experience with the Labor investigators could not have been better, and he was very satisfied with the investigative effort on the case. He also specifically noted that the Labor representative to the strike force was an excellent investigator.

A third attorney who assisted on the case told us that the investigation involved a review of records and the use of a questionnaire to obtain information from advertisers. He said that the Labor investigators were very enthusiastic, and the relationship between Labor and the strike force was very good.

CASE NO. 2--WILLIAM PRESSER/MISUSE OF TRAVEL FUNDS (1970-73)

Case Initiation

On October 7, 1970, Labor, at the request of the Cleveland strike force, initiated an investigation of Joint Council No. 41 of the Teamsters Union. According to Labor's case initiation document, the annual report that the Council had filed with Labor for 1969 did not reflect any expenses paid to Council officers, including the Council president, the late Mr. William Presser. Mr. Presser also served as the vice president, Teamsters Union; president, Ohio Conference of Teamsters; president, Local 555, Taxicab Drivers; trustee, Teamsters Central States Conference; and trustee, [Teamsters] Central States Southeast

and Southwest Areas Pension Fund (Central States Pension Fund). The Labor representative to the strike force, at the time of the investigation, told us that Labor believed that the annual report was false or that the expenses had been charged elsewhere.

Case Investigation

According to a Labor report of the investigation through June 9, 1971, Mr. William Presser, as the person responsible for authorizing all disbursements from the Council treasury,

-- authorized payment of airline transportation for two family members from Cleveland to Miami and return ($299);

-- authorized purchase of an airline ticket to Miami for an associate of his wife ($86);

-- made nonbusiness trips, accompanied by another family member, at Council expense ($381);

-- caused the sale, for $1, of a Council automobile to a former Council business agent, who subsequently sold it for $2,700;

-- authorized payment by the Council of 50 percent of the rent on his North Miami Beach, Florida, apartment although only a very limited amount of his work was conducted in Florida ($3,018); and

-- caused false entries to be made in Council books and records and caused false annual reports to Labor to be made for 1968 and 1969.

The report cited violations of LMRDA, including 29 U.S.C. 501(c), embezzlement-conversion of union funds; 29 U.S.C. 439(c), falsifying union records; and 29 U.S.C. 439(b), filing false statements, including annual reports.

Case Disposition

On June 9, 1971, a federal grand jury in Cleveland returned a five-count indictment against William Presser. Counts 1 through 4 charged him with embezzling a total of $3,467 in violation of LMRDA; count 5 charged him with causing false entries in union records in violation of LMRDA.

At his June 21, 1971, arraignment before the U.S. district judge, Northern District of Ohio, Eastern Division, Mr. Presser pleaded not guilty to all five counts. On June 11 and 12, 1973,

a jury trial was held in the Northern District of Ohio, Eastern Division. A U.S. district judge of the Northern District's Western Division presided. According to the Labor case file, after the government had rested its case, the judge granted the defendant's motion for direct acquittal on all counts of the indictment, dismissed the charges against the defendant, and excused the jury. The judge declared that there was no issue for the jury to resolve because the government had failed to prove, beyond a reasonable doubt, that the defendant had violated LMRDA in respect to counts 1 through 4, and that proof of guilt as to counts 1, 2, and 3 was a prerequisite to proving count 5. Following the acquittal, Labor closed its case on William Presser on June 20, 1973.

In reviewing court documents on this case, we found that the order granting the defendant's motion for acquittal was not actually issued until April 17, 1975, almost 2 years later, along with an order dismissing the indictment against Mr. Presser. The Clerk of the court, Northern District of Ohio, told us that, although the judge had granted the motion for acquittal and dismissed the charges in 1973, he had not ordered it in the record. These later actions merely formalized what had transpired in 1973.

Discussions With Personnel Involved in the Case

We discussed this case with two Labor investigators, a strike force attorney, Labor's representative to the strike force, and the government prosecutor on the case. Two other persons who headed up the Cleveland strike force during the time of the case were unable to provide us with case specifics.

One Labor investigator told us that the case was a fairly good one from an evidence standpoint but weak in that the amount of money involved was small. He did not remember any restrictions being placed on the case's review, but was not able to remember many details about it. He did tell us that none of the Labor investigators were called to testify at the trial. He believes that the defense counsel presented evidence showing that the amounts in question were reimbursed to the Joint Council before the travel actually took place.

The other Labor investigator told us that Labor pursued all leads in the investigation. He had also worked on the case's prosecution memorandum before being reassigned to another Labor office. He told us that he was surprised when the defense counsel argued that reimbursement had been made by Mr. Presser because the investigators had found no such repayment in their review of the Council's records.

The Labor representative to the strike force told us that there may have been some limitations imposed on what records the review team could look at, and the years that they could review may have been limited. He was not sure who imposed the limitations but believes it was the court. He had left the strike force and returned to his duties at the Labor area office by the time the trial took place, but he vaguely recalled someone's showing him a document indicating that reimbursement had been made. He believed that the reimbursement may have been outside of the time period that was reviewed.

The attorney assigned to the case during the investigation could not recall details of it, but did remember meeting frequently with the Labor representative to the strike force to discuss the case. He told us that he thought the case was solid, but was not well received because of the small amounts of money involved. He had left the strike force before the case went to trial.

The government prosecutor on the case told us that, shortly before the trial, the defense counsel provided him with evidence showing that reimbursement had been made. He told us that the repayment was not in the time period reviewed by the investigators, and recommended to the chief of Justice's Organized Crime and Racketeering Section in Washington headquarters that the case be dismissed. But according to the prosecutor, Justice officials decided to continue with the case so that it would not appear that the administration was giving consideration to the Teamsters Union in exchange for election support. The prosecutor told us that the judge stated that this was the weakest case he had ever presided over as a federal judge.

CASE NO. 3--NICHOLAS FRANCIS (1970-72)

Case Initiation

In about 1970, Labor initiated an investigation of Nicholas Francis, then-president of Teamsters Local 416 in Cleveland, concerning expenses incurred at the Theatrical Grill (a restaurant in Cleveland) that were charged to the union. This investigation was requested by the Cleveland strike force and was one of the first cases looked into when the strike force was started.

Case Investigation

According to Labor, the investigative file for this case was sent to records storage in 1976 and destroyed in 1982. However, general information obtained from our interviews with participants in the case, available court records, and newspaper articles, is provided next.

Case Disposition

Records we obtained from the U.S. District Court, Northern District of Ohio, show that Nicholas Francis was indicted by a grand jury in Cleveland on July 23, 1970. He was charged with two counts of embezzling union funds, in violation of LMRDA, and four counts of making false union records, in violation of LMRDA. Mr. Francis entered a plea of not guilty at his arraignment.

According to a Cleveland Plain Dealer article, on March 25, 1971, lawyers for Mr. Francis argued, during pretrial proceedings, that $11,000 of $14,000 in bills at the Theatrical Grill were signed by Mr. Catalano, president of Local 416 at that time, and not by Mr. Francis. The article further states that a government attorney at the hearing argued that Mr. Francis was present when the checks were signed and, as the then-secretary-treasurer of the local, he was responsible for disbursements. Court records showed that one count of the indictment was dismissed on May 25, 1971; on April 26, 1972, an order for dismissal of the indictment was filed. Labor closed its case sometime during 1972.

Discussions With Personnel Involved in the Case

We discussed this case with two Labor investigators and three former Cleveland strike force attorneys who were involved in the case. According to the Labor investigators, Nicholas Francis, as the secretary-treasurer of Teamsters Local 416 in Cleveland, and Patrick Catalano, as president of that local, spent between $16,000 and $20,000 at the Theatrical Grill and charged the expenses to the union. (Mr. Catalano had disappeared in 1968.)

One Labor investigator told us that he thought that Mr. Francis had signed the local's checks to the restaurant. He also told us that the local's annual report to Labor may have listed the restaurant charges as "administrative expenses." He did not remember if an indictment against Mr. Francis was obtained.

The second Labor investigator told us that he believed they had a case against Nicholas Francis. He did not know why the indictment against Mr. Francis was dismissed, but believes there was some problem with the form of the indictment, i.e., the number of counts that should have been included. He said that the head of the Cleveland strike force told him, at that time, that Mr. Francis would be reindicted, but this did not occur.

None of the attorneys we talked to could provide us with details on the case or tell us exactly why the indictment was dismissed. One attorney, we had been told by a Labor investigator, had participated in the case and was also mentioned in a March 26, 1971, Cleveland Plain Dealer article as having presented information in court the previous day. He told us that he could not remember if this had been his case. The second attorney told us that he may have assisted on the case, but he was not primarily responsible for it. He could only recall that the case dealt with embezzlement of funds from Local 416. The third attorney told us that he thought he was involved in the case through the indictment, but did not recall that the indictment had been dismissed or why Mr. Francis was not reindicted. He told us that he thought Mr. Francis had used one local's funds to organize another local, with the Theatrical Grill as his base of operations.

CASE NO. 4--AUDIT OF TEAMSTERS LOCAL 299 IN DETROIT (1970-73)

Case Initiation

On May 26, 1970, Labor began investigating activities of Teamsters Local 299 in Detroit at the request of the Detroit strike force. One of the aspects to be looked at concerned allegations that Francis R. (Richard) Fitzsimmons (a business agent with the local and the son of the late Mr. Frank E. Fitzsimmons, former vice president and acting president of the Teamsters Union and Teamsters Local 299) had allowed family members to use the local's gasoline credit card for personal purposes and had charged personal purchases to the union.

A second aspect of the investigation concerned allegations that Mr. Donald Davis, who worked under the direction of Mr. Rolland McMaster, the acting principal officer of Local 299, had submitted false claims for reimbursement to the union.

RICHARD FITZSIMMONS CASE

Case Investigation

Using the books and records of the local that had been obtained under a joint Labor-FBI subpoena, Labor investigators reviewed several allegations relating to Local 299. According to an interim report in the Labor case file, the investigators' examination of gasoline credit charge invoices for 1969 and 1970 produced numerous instances of apparent forgeries of Richard Fitzsimmons' signature.

According to a February 29, 1972, Labor memorandum to the Director, FBI, on April 28, 1971, a total of 240 such invoices were submitted to the FBI laboratory for analysis. The Labor memorandum noted that, in a June 4, 1971, response, the FBI laboratory stated that positive conclusions on the apparent forgeries were reached on only a small number of invoices. The response cited an insufficient amount of known handwriting and variations in the questioned handwriting as reasons for the low number of apparent forgeries identified. However, according to the Labor file, the laboratory reached enough conclusions to confirm the investigative theory of the case. On February 29, 1972, Labor resubmitted the invoices to the FBI laboratory, requesting another examination based on a greater quantity of known handwriting samples. In its March 24, 1972, response, the FBI laboratory stated that no additional identifications could be made.

The Labor investigation also disclosed that Richard Fitzsimmons used the local's credit card to make personal clothing purchases. In addition, an extensive investigation of the receipts and disbursements of the Saline Valley Recreation Center, a subsidiary of Local 299, was performed, but did not disclose any actionable violations.

The investigators requested and obtained subpoenas for the appearance of Mrs. Richard Fitzsimmons and the Fitzsimmons' two daughters before a grand jury. The subpoena for one daughter was not served because she could not be located. According to a Labor summary of the case, Mrs. Fitzsimmons and the other daughter were excused from testifying before the grand jury on account of alleged illness.

Case Disposition

According to the Labor case file, on January 4, 1973, the head of the Detroit strike force informed Labor that its report of supplemental investigation had been reviewed by Justice's Organized Crime and Racketeering Section in Washington, which had decided to stand by its original decision to decline prosecution of the case. Labor then closed its case so far as it involved Mr. Richard Fitzsimmons.

A March 23, 1976, memorandum to the assistant attorney general, Criminal Division, from the head of the Organized Crime and Racketeering Section states that the Richard Fitzsimmons case was declined because of serious problems of proof relating to the nonunion use of materials purchased as well as the deminimus (small) amounts involved in the purchases. The memorandum also states that the prosecution memorandum was reviewed by career professionals in the section, and no influence or

pressure was brought to bear on the section from anywhere (including the White House).

According to Justice officials, Mr. Richard Fitzsimmons was convicted of conspiracy charges in Detroit in 1979, under the Racketeering Influenced and Corrupt Organization Act.

Discussions With Personnel Involved in the Case

We discussed this case with the former Detroit strike force attorney assigned to the case, Labor's former representative to the strike force, Labor's principal investigator on the case, and with the deputy chief of the Criminal Division's Organized Crime and Racketeering Section in Washington.

The former strike force attorney on the case told us that both he and the head of the strike force recommended that Mr. Richard Fitzsimmons be indicted for embezzling union funds. The attorney could not recall if a prosecution memorandum was prepared on the case, although he did remember writing short memorandums to Justice in Washington, one of which may have included a proposed indictment. He told us that, in this case, Justice officials in Washington did not agree with the strike force recommendation to prosecute, stating that the amount of money involved in the case was too small. The attorney also told us that, to his knowledge, there was no Justice policy on just what amount, in a case, is considered too small.

The former Labor representative to the strike force told us that the case went back and forth, several times, between Detroit and Washington; the investigators continued to patch up holes in the case and Justice continued to find new weaknesses. He said he believed Justice was trying to stop or delay this case. This was the only Labor case, in his 22 years of experience, where he felt strongly that there had been political intervention. He told us that he received no pressure from Labor on the case.

The principal Labor investigator told us that Justice declined prosecution on this case because it lacked prosecutive merit and that the amount involved was too low. He noted, however, that Justice had gone forward with other cases for similar amounts.

The Organized Crime and Racketeering Section official told us that he recalls that there were voids in the proof in this case. He said that he did not recall that the investigation proved that the alleged purchases of gasoline and other items were used for other than union purposes. He also told us that the case involved only a small amount of money, which was spread

out over a number of years. He classified this amount as deminimus, although he said that Justice has no monetary standard for determining what amount is deminimus. He also denied that there was any political intervention in the handling of this case at Justice.

DONALD DAVIS CASE

Case Investigation

Labor investigators reviewed the books and records of Local 299 and contacted hotels and restaurants to determine if Mr. Donald Davis, the local's business agent, had submitted false claims for reimbursement. According to a June 29, 1972, Labor report on the case, the investigation disclosed that Mr. Davis had submitted false receipts to Local 299, totaling about $1,600. Reimbursement was obtained from Local 299 which was, in turn, reimbursed by the Teamsters Central States Conference. In addition, certain lodging, automobile, and travel expenses, totaling about $1,800, which were not normally considered by the local as reimbursable expenses, were also paid.

Case Disposition

According to records in the Labor case file, on September 20, 1972, Mr. Davis was indicted by a Detroit grand jury on four counts of embezzling the local's funds and making false entries in the local's records in violation of LMRDA provisions. At his arraignment, Mr. Davis entered a plea of not guilty on all counts. In a jury trial, which was held from June 26 to July 10, 1973, before a U.S. district judge in Detroit, he was found not guilty on all counts of the indictment. Labor closed its case on Mr. Davis on August 2, 1973.

Discussions With Personnel Involved in the Case

We discussed this aspect of the case with the following: the primary Labor investigator, the Labor representative to the Detroit strike force during the time of the case, and the former Detroit strike force attorney who was the prosecutor on this case.

Labor's primary investigator told us that the investigators subpoenaed records, performed third-party checks, and obtained handwriting analyses. He said that the analyses showed that Mr. Davis had written some of the receipts in question. The investigator said that he had thought Labor had a very strong case against Mr. Davis. However, the investigator did not think that any Labor official testified at Mr. Davis' trial. In addition, the investigator told us that he had received no pressure

on this case from anyone at Labor or Justice, and the case had had adequate staffing. According to this investigator, an extremely cooperative relationship between the Labor office and the strike force existed, and the prosecutor was very supportive of Labor on this case.

The Labor representative to the strike force told us that he, too, believed that this was a solid case. He said that the investigation on this job was very tedious because the investigators had had to contact so many hotels and restaurants. However, he said that the primary Labor investigator on the assignment did a good job and Labor did all that it could on the case.

The prosecutor told us that allegedly Mr. Davis had submitted false receipts for payment to the local, including some from nonexistent restaurants. He told us that the Labor Department did a very good job on the investigation and that he thought that he had had a strong case against Mr. Davis.

CASE NO. 5--AUDIT OF TEAMSTERS LOCAL 507 IN CLEVELAND (1973-74)

Case Initiation

On February 15, 1973, Labor initiated an investigation of Teamsters Local 507 in Cleveland. According to the case initiation document, the investigation was requested by Justice's Cleveland strike force. Previous strike force investigations had indicated possible misuse of Local 507 funds.

Case Investigation

According to Labor's case file, this was a complete field audit of Local 507's books and records. Access to the records for 1968 through 1972 was obtained through the use of a Labor subpoena, as provided for under LMRDA.

Following the investigators' examination of the local's records, a meeting between the investigators and the then-head of the Cleveland strike force was held on September 17, 1983, to discuss the results of the case. At the conclusion of the meeting, the strike force head requested that Labor prepare a memorandum showing the results of the investigation and its opinions as to the merits of the various issues involved.

A memorandum report of investigation was prepared by the investigators and a formal report provided to the strike force on December 21, 1973. The report discussed the close interrelationship between Teamsters Local 507 and Bakery Workers Union

Local 19 officers; the growth of Local 507; and the unique control over 507 by its three principal officers--Messrs. Harold Friedman, Allen Friedman, and Jackie Presser. The Labor report, however, did not cite any specific violations of labor laws.

In discussing his theory of the case in the report, the primary Labor investigator assigned to the case stated that Local 507 was designed, created, and operated for the specific purpose of converting its funds to the use of its three principal officers. He also stated that it had been believed that a conspiracy case, linked to the amount of the local's funds that was converted to the use of the three officers, could be developed to the point of successful prosecution. He said that additional investigation of Local 507, Bakery Workers Union Local 19, the 1870 East 19th Street Company in Cleveland, and various funds of both locals was needed to further establish the existence of such a conspiracy.

According to Labor records, following his review of the report and further discussions with Labor investigators, the strike force head expressed particular interest in the 1870 East 19th Street Company. Labor opened a separate case to investigate this entity (Cleveland Area Office, Case No. 53-7093). We were told by an investigator who worked on this case that the investigation failed to disclose any criminal violations.

Case Disposition

On August 27, 1974, Labor closed its investigation of Local 507. The Cleveland area director stated, in a memorandum, that the case was being closed upon the advice of the strike force head, following a review of the investigation that did not reveal an actionable violation. Because Justice denied us permission to interview the former strike force head, we do not know why he ordered the case closed or why other areas, identified by the investigators as needing further review, were not pursued. We found no evidence of any grand jury involvement in this case.

Discussions With Personnel Involved in the Case

We discussed the case with the Labor investigator who was responsible for conducting most of the work on the case and with another Labor investigator who served in a supervisory capacity. Two other investigators who assisted in the case are now deceased. The Labor representative to the Cleveland strike force at the time of the case was unable to provide us with any details.

The primary Labor investigator told us that no restrictions were placed on the review, except for a cutoff for the investigation, which was imposed by his national office. He told us that the review did not identify, nor did Labor's report include, any specific violations of law. He said, however, that Labor's report had identified several areas that needed to be reviewed further, and he had thought the strike force would be interested in this report. Because the team did not have records dealing with all of these areas and because of the cutoff imposed by Labor, the review team could not gather information for the additional areas to a point where a prosecutive decision would be necessary.

The other Labor investigator told us that the scope of the review had to be narrowed because of the large number of areas involved. He said that an administrative decision was made not to include the closely related Bakery Workers Union Local 19 in the review because of the lack of resources.

CASE NO. 6--COOK UNITED CORPORATION (1974-77)

Case Initiation

On October 10, 1974, Labor began investigating two specific allegations to determine if any violations of the Taft-Hartley Act or LMRDA had occurred. The investigation was requested by the Cleveland strike force.

According to Labor's case initiation document, the first allegation was that an unnamed management official of the Cook United Corporation made a payment to an unidentified official of Teamsters Local 507. The payment was allegedly made to ensure that the local would not negotiate on behalf of members, employed at Cook United, who were engaged in a wildcat strike against the company.

The second allegation was that a Teamsters Local 507 official was extracting payments from an unknown company in the Cleveland area. The local became aware of the shakedown, fired the official, and reportedly reimbursed the employer, classifying the payment in the local's records as the repayment of a loan.

Case Investigation

The Labor investigators interviewed employees and officials of Cook United Corporation; examined selected records of Cook United, Teamsters Local 507 and its pension fund, and Bakery Workers Local 19; and conducted third-party inquiries.

According to a Labor summary of the case, the first allegation (concerning the payoff to a union official) was not substantiated by the investigators. Although the president of Local 507 acquired 2,000 shares of Cook United stock (worth about $16,000) during the general time period of the Cook labor problems, the investigators' examination of transfer agent and stockbroker records showed that he paid the fair market value for the stock.

With regard to the second allegation, Labor's investigation found that Mr. John Trunzo was the only employee whose employment had been terminated by Teamsters Local 507 during the general time period referred to in the allegation. The records reviewed by the investigators showed that Mr. Trunzo's employment as a business agent was terminated effective April 1, 1974, for reasons of ill health. Mr. Trunzo received $3,734 net severance pay from Teamsters Local 507. This payment represented the balance of his pay for the year and was approved by the local's executive board. The investigators' review of records did not reveal any entry in the union's records showing repayment of a loan, as had been alleged.

The review further disclosed that Mr. Trunzo was also employed as a business agent for Bakery Workers Local 19 and as plan administrator of Teamsters Local 507's pension fund. This employment was also terminated on April 1, 1974, because of ill health. He received $11,902 in severance pay from Local 19 and $15,431 from Local 507's pension fund. The investigation failed to establish, however, that the proceeds of the severance pay checks were used to repay an employer, as alleged. In addition, the investigators found that the check from the pension fund was cashed by a trustee of Local 507's pension fund (Everett Oxyer). Mr. Trunzo insisted that he received the entire proceeds of all checks.

During the investigation, Labor investigators reviewed subpoenaed records of Mr. Trunzo's activities at a Cleveland national bank. The review disclosed that Mr. Trunzo appeared to have filed a false application with the bank for a $2,150 loan. The investigators' review of the records showed that Mr. Trunzo did not appear to list all of his outstanding debts on the loan application filed with the bank.

Case Disposition

The Labor summary of the case states that in September 1976 the strike force attorney-in-charge of the case prepared a prosecutive memorandum that recommended Mr. Trunzo be indicted for willfully filing a false loan application at a Cleveland national bank. The summary stated, however, that in November 1976

the Cleveland strike force decided not to take legal action against Mr. Trunzo.

Finally, the summary stated that the negative investigative results of the case were discussed with the attorney-in-charge of the case; he directed that no further investigation be conducted and the case be closed. Labor closed the case on February 22, 1977.

Discussions With Personnel Involved in the Case

We discussed the case with the former Cleveland strike force attorney assigned to the case and with three Labor investigators who were involved in it. Neither the strike force attorney nor one of the investigators could provide us with details of this case.

One Labor investigator told us that the coordination between Labor and the Cleveland strike force on this case was not good. He said that the strike force did not follow up on the leads that Labor provided them, although this should have been done during the grand jury investigation. He also told us that the Cleveland strike force thought that it had approval to indict in the case and that he had been scheduled to testify before the grand jury. However, just a few days before he had been scheduled to testify, he was told that Justice had decided not to indict. He believed that this decision was made at Justice's Washington office and had to do with the limited immunity of the person who was to be indicted, which tainted the case.

CASE NO. 7--GIFTS OF BALLY STOCK TO THE WILLIAM PRESSER FAMILY (1975-77)

Case Initiation

On March 26, 1975, Labor initiated an investigation of the relationship between gifts of Bally Manufacturing Corporation stock (to members of the late William Presser's immediate family) and loans from the Central States Pension Fund to the Bally Corporation. The investigation was to determine whether violations of 18 U.S.C. 1954 (offering, accepting, or soliciting gratuities to influence operations of an employee benefit plan) had occurred. At the time of the loans, William Presser was a trustee and a member of the fund's executive committee. This investigation was requested by the Cleveland strike force.

Case Investigation

The investigators reviewed records of the Central States Pension Fund and Bally concerning fund loans and the acquisition

of stock. They also reviewed records obtained from the Nevada Gaming Control Board concerning Bally's capitalization and stock ownership.

According to a Labor report of the case, the investigation established the following:

-- In February 1972, Mr. Sam Klein, the principal shareholder and an officer of Bally, gave Bally common stock from his personal account, worth about $120,000, to members of Mr. William Presser's immediate family. Approximately $70,000 of this stock went to Mr. Presser's son, Jackie, and to his immediate family.

-- In addition to the stock to the Presser family, in February 1972, Mr. Klein gave stock worth approximately $1 million to other persons residing in the Cleveland area.

-- In April 1972, the Central States Pension Fund loaned $6 million to Bally in exchange for an 8-percent convertible note.

-- In August 1973, Mr. Klein gave Mr. William Presser's immediate family an additional 300 shares of Bally stock, worth about $16,500.

-- In January 1974, the Central States Pension Fund loaned an additional $12 million to Bally in exchange for a 6-1/2-percent convertible note and a warrant to purchase 25,000 shares of Bally stock.

During the investigation, Mr. Klein's attorney provided documents to the Cleveland strike force that indicated that stock gifts to the Presser family and others were part of Mr. Klein's estate planning and were given for consideration of favorable tax consequences. The attorney also stated that the gifts were fully disclosed to the Securities and Exchange Commission, and there was no attempt by Mr. Klein to conceal them.

The Labor report stated that the investigation failed to clearly establish that the gifts of stock (by Mr. Klein to William Presser's family) were granted in an attempt to influence the approval of the loans to Bally by the pension fund's executive committee.

Case Disposition

According to Labor records, on January 31, 1977, the attorney-in-charge of the Cleveland strike force advised Labor

that he did not think the evidence in the case was sufficient for prosecution. He stated that although he was considering calling additional witnesses before the grand jury and would have liked to keep the investigation open, no future investigation by Labor was anticipated in the immediate future. Labor closed its case on April 4, 1977, stating that the head of the strike force ordered the case closed in view of the lack of direct evidence that 18 U.S.C. 1954 had been violated.

Discussions With Personnel Involved in the Case

We discussed the case with the following people involved in it: the head of the Cleveland strike force at the time of the case, a strike force attorney in charge during the later stages, and three Labor investigators.

The former head of the strike force told us that the strike force attorney assigned to the case had made the decision not to prosecute the case and he had agreed. The strike force head said that because a quid pro quo (i.e., that something was given or received for something else) could not be established, it would have been hard to prove this case beyond a reasonable doubt in court.

The other attorney told us that there were no weaknesses in the case investigation, and all leads were followed to the fullest extent. However, he said they had been unable to prove the quid pro quo. He also told us that the strike force received excellent support from Labor.

One Labor investigator told us the evidence gathered was circumstantial and could not prove anything beyond what was in the records. The investigator said that he had recommended that the strike force call the stock recipients to testify before the grand jury, but this was not done. He noted that the relationship between the investigators and the strike force was adequate, but could have been better. He cited disagreements as to how the investigation should have been performed, but noted that the role of Labor was to assist the strike force in combating labor racketeering; essentially, Labor went along with what the strike force said should be done.

A second Labor investigator told us that the Labor review did not find any labor-management violations, and he believed that they pursued the case as far as they could. The third Labor investigator was on the case only a short time and was unable to recall details.

CASE NO. 8--HOOVER-GORIN (CLEVELAND INVESTIGATION) (1981-82)

Case Initiation

This 1981-82 investigation was part of an overall investigation of Mr. Jackie Presser and others, performed by Labor's Office of Organized Crime and Racketeering in Cleveland from 1981 to 1985. According to Labor's investigative report, this particular segment of the investigation began in late August 1981 and concerned an allegation that Mr. Jackie Presser, then a vice president of the Teamsters Union, received large sums of money from a public relations and consulting firm that had a contract with the Teamsters Union.

The investigative report stated that a newspaper in Cleveland, the Cleveland Plain Dealer, ran a series of articles on August 23, 24, and 25, 1981, alleging that Mr. Jackie Presser received about $300,000 in cash kickbacks from Hoover-Gorin and Associates, Incorporated, a Las Vegas company hired by the Teamsters Union in the early 1970's to upgrade the union's image. The article stated that some of the information used in the series was taken from documents relating to a 1977 civil suit in which Harry Haler, a consultant to, and original investor in, Hoover-Gorin, sued the company in a dispute over wages. According to the investigative report, Mr. Haler was interviewed by Labor's investigators and stated that the company was awarded a 4-year contract, worth $1.3 million a year, with the Teamsters Union in August 1972; a prerequisite for the union's accepting the contract was an agreement to pay Mr. Jackie Presser $16,500 a month during the life of the contract.

Case Investigation

A report summarizing the investigation through December 30, 1981, was included in Labor's file. Information from that report is presented next; additional details about the investigation, which were related to us by investigators on the case, are included in the two sections that follow.

The Labor report states that Mr. Harry Haler told the investigators that Mr. Duke Hoover, a disc jockey and car rental agent, convinced Mr. Abner Gorin and Mr. Haler to invest $5,000 each so that Mr. Hoover could start an advertising agency in Las Vegas. On June 1, 1971, they formed a limited partnership. This partnership was dissolved in July 1972 when Hoover-Gorin and Associates was incorporated under Nevada law.

The report also states that on August 1, 1972, the Teamsters Union awarded a 4-year contract to the company as follows:

$350,000 per year as a retainer to Hoover-Gorin; $500,000 per year for public relations; and $450,000 per year for advertising; totaling annually, $1.3 million. (The contract was terminated in 1974 and replaced by another contract under which Hoover-Gorin would receive $50,000 a year in retainer fees for a 2-year period.)

According to the report, Mr. Haler told the investigators that he arranged the contract between Hoover-Gorin and the Teamsters Union. The report stated that Mr. Haler said that the contract was a prearranged deal--between him and Messrs. Duke Hoover, the late Frank Fitzsimmons, the late William Presser, and Jackie Presser--and was designed solely as a vehicle to extract moneys from the Teamsters Union for the personal use of the Pressers and Fitzsimmons.

According to the report, Mr. Hoover told the investigators that Hoover-Gorin and Associates was formed in the summer of 1972, during negotiations with the Teamsters Union. The report stated that Mr. Hoover told them that, after being introduced to the late Mr. Frank Fitzsimmons (a former Teamsters Union president), by Harry Haler, he and Fitzsimmons discussed the plausibility of a concentrated advertising campaign to improve the Teamsters' image. Mr. Hoover said, according to the report, that he made further presentations to the Teamsters Union before he was awarded the contract.

The report also describes a second contract, dated August 1, 1972, between Mr. Hoover and Mr. Haler, that called for the payment of $16,500 per month to Mr. Haler as a commission, plus an additional $2,000 per month consulting fee. The contract was apparently in effect for about 6 weeks before being renegotiated for a higher amount. Mr. Hoover told the investigators that Mr. Haler wanted more money; Mr. Haler told them that he could not afford to pay federal income tax on the $16,500 per month he was receiving from Hoover-Gorin because the checks were cashed immediately and the entire amounts transferred to Mr. Jackie Presser. Raising the commission would allow Mr. Haler to retain some of the moneys in order to pay the tax due. The investigators' review of Mr. Haler's personal checking account substantiated that he did not keep the money from Hoover-Gorin.

In addition, the report notes that, in March 1977, Mr. Haler filed suit in Los Angeles County alleging that Hoover-Gorin and Associates owed him $25,000 per month from June 1974 through July 1978. The suit was dropped in 1978 at the request of Mr. Haler.

Case Disposition

Labor's case file did not contain information on the disposition of the investigation beyond December 1981. However, the chief of the Organized Crime and Racketeering Section (in Justice's Criminal Division in Washington) informed Mr. Presser's attorney that Justice considered the matter concerning the allegations that Mr. Presser took kickbacks from Hoover-Gorin and Associates closed (letter dated October 4, 1982, to Presser's attorney). No reason for closing the investigation was provided in the letter. The chief's letter was mentioned in a subsequent Cleveland Plain Dealer article. As indicated previously, because of its ongoing criminal investigation of Justice's handling of the ghost-workers case, Justice would not permit us to discuss the Hoover-Gorin case with Cleveland strike force attorneys or the section chief in Washington. Therefore, we were unable to obtain Justice's reasons for closing the case.

According to the Labor case file, Labor investigators confirmed the closing of this aspect of the overall Jackie Presser investigation with the Cleveland strike force. Following this, the investigators concentrated their efforts on other aspects of the Jackie Presser investigation.

Discussions With Personnel Involved in the Case

We discussed the case with a former head of the inspector general's Cleveland office, two former Labor investigators in that office who worked on the case, and another investigator who was familiar with the case.

The Cleveland office heard of the allegations, according to the former head, from a Cleveland Plain Dealer reporter before the series of articles appeared in August 1981. He told us that Labor's investigation included conducting interviews, reviewing records, and performing financial analyses. Based on the investigation, he believed that all of the evidence pointed to the fact that there were kickbacks to Mr. Presser, and Labor was optimistic about obtaining an indictment. He also told us that Labor wanted to subpoena other persons before the grand jury. The strike force attorney, however, elected not to issue additional subpoenas and stated that he preferred to pursue the ghost-workers investigation.

The former head recalled that just before it was announced in the Cleveland Plain Dealer, the Cleveland strike force chief told him that Mr. Presser's attorney had received a letter from the chief of Justice's Organized Crime and Racketeering Section in Washington, informing him that the Hoover-Gorin case was

closed. The former head told us that, in an earlier meeting he had attended, the same Justice official had stringently objected when he found out who the primary informant on the case was, even though Labor assured him that the testimony would be backed up by other evidence.

Both of the Labor investigators on the case confirmed that the lead on the case came from Cleveland Plain Dealer reporters. One investigator told us that he and other investigators had developed a strong case but that Justice closed the case before the investigation was fully completed. The other investigator told us that the review of records on the case showed that a check went to Mr. Harry Haler every month and there were witnesses to the money's changing hands. He said that all the evidence was presented to the strike force attorney assigned to the case. The investigator told us that he believed that Mr. Presser could have been indicted on embezzlement from a local union, bribery, extortion, and conspiracy. The investigator also told us that the strike force attorney told him that the chief of the Organized Crime and Racketeering Section in Washington closed the case and cited the credibility of the primary witness as the main reason.

Another Labor investigator familiar with this case told us that the case was not fully developed before it was closed by Justice because of doubts about the credibility of the primary witness. He noted, however, that this same person was Justice's key witness in the successful prosecution of two organized crime figures in another case in 1985. He also said that it was very unusual to close a case without consulting with the investigative agency.

CASE NO. 9--FRONT ROW THEATRE (1982)

Case Initiation

This investigation was begun in early 1982 and dealt with the possibility that Mr. Jackie Presser had used the Front Row Theatre, an entertainment arena in Cleveland featuring live performances by musicians and entertainers, as a means to earn, through little or no actual investment of money in a short period of time, a profit of about $1 million. Mr. Jackie Presser had invested in the Front Row in 1974 and had been later quoted in the press as saying that he had become a millionaire through this investment. The investigation was part of an overall investigation of Mr. Jackie Presser and others conducted by Labor's Office of Organized Crime and Racketeering in Cleveland from 1981 to 1985.

Case Investigation

We reviewed Labor's file on the investigation and interviewed investigators who were involved in the case. We were able to determine that Labor's investigation included a review of the records of the Front Row Theatre and the Central States Pension Fund. We were told by an investigator familiar with the case that the investigation disclosed that some of the persons who held or obtained an interest in the Front Row Theatre were the same persons who obtained loans from the Central States Pension Fund. The objective of the investigation, therefore, was to determine whether Mr. Jackie Presser had received his interest in the theatre because of loans to persons from the pension fund.

Case Disposition

Because Labor's file did not contain a summary of investigative findings and conclusions, we are unable to provide complete details of this case. However, interviews with Labor investigators indicated that Justice officials apparently decided to terminate the investigation into Mr. Presser's activities at the Front Row Theatre.

Justice would not permit us to discuss the Front Row Theatre investigation with Cleveland strike force attorneys or Washington officials because of an ongoing criminal investigation, by Justice's Office of Professional Responsibility, into the handling of the ghost-workers case.

Discussions With Personnel Involved in the Case

We discussed the investigation with the former head of Labor's Office of the Inspector General in Cleveland, two investigators who worked on the case, and another investigator familiar with the investigation.

One Labor investigator told us that, after Mr. Jackie Presser had been quoted in the media as saying he had become a millionaire from dealings in the Front Row Theatre, Labor targeted the Front Row Theatre to be investigated. The investigator told us that Mr. Jackie Presser supposedly acquired an interest in the Front Row for about $10,000; he sold his interest a few months later for $1 million. The company that purchased Presser's interest later sold it back to the original owners (less Jackie Presser) at a loss of about $1 million. The investigator said that he believes there was a connection between the Front Row Theatre transactions and the granting of loans from the Central States Pension Fund for the purchase of casinos.

He told us that the Front Row Theatre case was very solid and that Mr. Jackie Presser and others could have been indicted for embezzlement of union funds, extortion, bribery, and conspiracy. He said, however, that the investigators needed to analyze Central States Pension Fund records in order to establish whether the investment opportunity in the theatre had been given to Mr. Presser in exchange for loans from the pension fund. He said that their efforts were stopped by Justice before the investigation was completed.

The other Labor investigator on the case told us that he also believed that the Front Row Theatre transactions were a payoff to Mr. Jackie Presser for loans granted by the Central States Pension Fund. He told us that Labor wanted to prove this connection but needed to acquire information through the use of the grand jury. He said that Labor was ready to go to the grand jury but that the case did not progress that far. Although the Cleveland strike force did not actually order the investigation stopped, he added, neither did it provide direction to the investigators, and the case basically vaporized.

The former head of Labor's Office of Inspector General in Cleveland told us that he recalls that Mr. Presser entered into a partnership that invested in the Front Row Theatre for a small amount of money, just before it was sold to a large company at an inflated value, about a million dollars more than its market value. The former head corroborated the account given by the Labor investigator (see p. 47).

He also told us the following: It would have been difficult to prove a link between the sale of the theatre and loans granted by the Central States Pension Fund. Because of the time period involved, these transactions could be considered as occurring within the statute of limitations only if Justice viewed the transactions as a continuing conspiracy, ending with the sale of the Front Row back to its original owners. As a result of these difficulties, this investigation basically died in favor of the ghost-workers investigation.

Another Labor investigator familiar with the case told us that the case involved a complex series of events that went back to the early 1970's, and there were some problems with regard to the statute of limitations. He said that the decision not to go forward with the Front Row Theatre investigation was based on a number of aspects of the overall Jackie Presser investigation. At the point that the investigation was stopped, he added, Labor had not proven its case.

CASE NO. 10--MANAGEMENT OF HOUSING FOR TEAMSTERS RETIREES (1982)

Case Initiation

This investigative effort was part of an overall investigation of Mr. Presser and others conducted, from 1981 to 1985, by Labor's Office of Organized Crime and Racketeering in Cleveland. This particular aspect of the investigation involved leads received by Labor in early 1982, indicating that Mr. Presser might be receiving kickbacks from a management company (formed to manage Teamsters housing) and from another company (which provided supplies to the unit).

Case Investigation

We are unable to provide many details on Labor's investigation of these allegations because the Labor case file included few documents relating to this aspect of the case and no overall summary of investigative findings and conclusions.

From the available documents and discussions with investigators involved in the case, we were able to determine that the investigation included a review of public records pertaining to the management company and the other company. It also included interviews with officials of firms that did business with these companies.

The management company involved in the allegation was Retiree Housing Management Incorporated, which was incorporated in Ohio in February 1979. Little other information about the company or the allegation was determinable from our review of the case file.

The other company, Spectro Data, Incorporated, was formed in 1972 to be a broker for office supplies and light bulbs sold to various commercial accounts. On January 2, 1973, Spectro Data became a special sales representative of the Westinghouse Corporation; under this arrangement, Spectro Data received a commission of 2 to 3 percent of net sales billed to accounts served by Spectro Data. The investigators were told that Spectro Data's primary client was the Cook United Corporation, which did approximately $1 million of business with Westinghouse annually. Westinghouse lost its contract with Cook United in 1981, and, on September 2, 1981, Spectro Data was terminated as Westinghouse's special sales representative. We could not find any records in the case file showing that Spectro Data sold supplies to Teamsters housing units or that Mr. Presser benefited from these or other Spectro Data sales.

Case Disposition

We were not able to determine when efforts on this aspect of the case ceased. The former head of Labor's Office of the Inspector General in Cleveland told us that he thought that the investigators were not able to develop evidence to support the allegations in the case. He also told us that it was the consensus of Labor and the Cleveland strike force that a case could not be made.

Discussions With Personnel Involved in the Case

We discussed this case with three Labor investigators involved in the case. Justice, however, would not permit us to discuss this investigation with Cleveland strike force attorneys or with Justice officials in Washington because of the ongoing criminal investigation of Justice's handling of the ghost-workers case. One Labor investigator told us that he thought the Labor investigation had developed sufficient evidence, which was provided to the Cleveland strike force; however, the strike force did not pursue it further. He told us that, at this same time, Labor and the Cleveland strike force were developing the ghost-workers case. He said that the ghost-workers investigation had more potential, and Labor's resources were concentrated on that investigation. The second Labor investigator told us that Labor had not subpoenaed any records on this aspect of the investigation.

The third investigator (the former head of Labor's Office of the Inspector General in Cleveland) told us that, at the time the Teamsters housing investigation ended, it had not progressed very far. He did not believe that Labor was able to develop the hoped-for evidence; the housing investigation was dropped in favor of the ghost-workers investigation.

OTHER CASES

There were two other cases that the Subcommittee asked us to review, Hoover-Gorin (New York investigation) and Frank Fitzsimmons (Los Angeles investigation). However, because of the lack of documentation for these cases, we are unable to provide detailed case summaries for them. The limited amount of information we were able to find on them is provided next.

Hoover-Gorin (New York Investigation)

Justice was unable to locate any documentation relating to this particular case. Similarly, Labor was unable to locate any files relating to this case. However, during our review of the case materials relating to an investigation of Hoover-Gorin and Associates (conducted during 1981 and 1982 by Labor's Office of

the Inspector General in Cleveland), we found some references to the New York case. The information presented next is taken from a December 30, 1981, Labor report of investigation prepared on the Cleveland case.

The 1981 report stated that on December 13, 1973, a grand jury subpoena was issued and served at the request of the Manhattan strike force. The subpoena required the production of nearly all of the books and records of Hoover-Gorin and Associates of Las Vegas. As of December 1981, the Labor investigators had not determined the exact nature of the grand jury inquiry; in addition, the original records from Hoover-Gorin, which were surrendered to the grand jury, had not been located. The report noted that possible areas of inquiry for the grand jury included an allegation that Teamsters funds were diverted to President Richard M. Nixon's 1972 reelection campaign through Hoover-Gorin and Associates.

The report also stated that in 1974, Mr. Harry Haler, an original investor in Hoover-Gorin and Associates, then serving a federal sentence in Lompoc, California, was moved to the Federal Detention Center in New York, where he was scheduled to testify before the Manhattan strike force's grand jury. Mr. Haler, however, was never called as a witness to testify. The report also states that Mr. Hoover, president of Hoover-Gorin and Associates, claimed to have been questioned by representatives of that strike force and recalled that most of the inquiry pertained to possible or potential campaign contributions to the Nixon reelection campaign.

Frank Fitzsimmons (Los Angeles Investigation)

Justice was able to locate only a few documents concerning this case. These documents dealt primarily with leaks of information that occurred during the case, but no investigative report or summary of the case was included. Labor was unable to locate any documentation on this case.

According to our review of available information, the case appears to have dealt with alleged kickbacks from providers of benefits (under employee health and welfare funds) to Teamsters officials and others. Mr. Frank Fitzsimmons was president of the Teamsters Union at the time. The case was investigated by the FBI in 1972 and 1973, and was also pursued by a federal grand jury and the Los Angeles strike force.

On April 29, 1973, a New York Times article reported that, according to an FBI affidavit submitted to Justice, the investigation, up to that point, had indicated a pattern of racketeering activity--a series of kickbacks from corporations (controlled by a physician in league with organized crime through People's Industrial Consultants, a Los Angeles consulting firm) to officials of a Teamsters' health and welfare fund. The article stated that, according to an FBI informant, the late Frank Fitzsimmons had allegedly given his tentative approval to the benefit plan, under which medical services would be provided by a Los Angeles physician.

The article also reported that Justice officials had turned down a request by the FBI to continue electronic surveillance, which had begun on January 26, 1973, under an order of the Federal District Court in Los Angeles, authorizing the FBI to intercept all telephone numbers in the offices of People's Industrial Consultants. The firm was described as a front, set up to channel union health and welfare funds to organized crime figures.

In an April 30, 1973, Justice press release, the assistant attorney general who heads the Criminal Division responded to allegations made in the New York Times article. He confirmed that an investigation was under way and that the FBI was involved in the case. The press release stated that the Attorney General had authorized an application to the U.S. District Court for electronic surveillance; this was needed in connection with an investigation in California of allegations concerning a scheme to obtain control of a Teamsters' health and welfare plan. The press release also stated that the court authorized a 20-day phone intercept in the course of the investigation, followed by an additional 20-day extension. However, the press release did not mention the name of the company or the names of the persons whose phone calls were being intercepted.

RESPONSIBILITIES OF LABOR, JUSTICE, AND THE FBI CONCERNING CRIMINAL VIOLATIONS

The Department of Labor is primarily responsible for detecting and investigating civil and criminal violations of LMRDA and ERISA (see 29 U.S.C. 521 and 1134). The Department of Justice, as the chief law enforcement agency of the government, is generally responsible for investigating possible violations of title 18 of the United States Code (the federal criminal laws). Because certain crimes designated in title 18 are related to violations of LMRDA and ERISA, the responsibilities of Labor and Justice overlap in certain areas. For example, section 511 of ERISA (29 U.S.C. 1141) makes it a criminal offense to interfere with the rights of a participant or a beneficiary of an employee benefit plan through the use of fraud, violence, or coercion. In addition, 18 U.S.C. 664 prohibits the theft or embezzlement of assets of a plan.

In carrying out its primary responsibility to detect and investigate violations of the ERISA fiduciary provisions, when a Labor investigation discloses potential embezzlement by a fiduciary of a plan (which may also involve a violation of 18 U.S.C. 664), Labor must refer the case to Justice for consideration for prosecution. Under an agreement between Justice and Labor, the Justice Department has the option of deciding whether it or Labor will complete the investigation, which may result in criminal prosecution. On the other hand, Justice does not need Labor's concurrence to initiate investigations when embezzlement of plan funds is suspected.

AGREEMENTS BETWEEN LABOR AND JUSTICE

In recognition of this overlap, the Secretary of Labor and the Attorney General have entered into agreements, as permitted under LMRDA and ERISA, detailing their Departments' respective investigative responsibilities and jurisdiction. Under the agreements, any evidence of criminal violations obtained by Labor, upon completion of its investigation, must be referred to Justice for consideration for prosecution by the U.S. attorney or strike force attorney.

Labor-Management Reporting and Disclosure Act

Under the LMRDA agreement, Labor investigates criminal provisions and matters relating to

-- false reporting by labor organizations,

-- labor organizations' bonding coverage,

-- loans by labor organizations to their officers and employees,

-- labor organizations' payments of fines incurred by their officials or employees, and

-- labor organizations' trusteeships established over subordinate organizations to correct corrupt practices or financial malpractice.

Justice and the FBI investigate

-- theft or embezzlement of labor organization funds,

-- employers' payments of fines incurred by a labor organization official or its employee,

-- prohibitions against certain persons holding office, and

-- deprivation of rights by force and violence.

Justice and the FBI also have investigative responsibility relating to crimes dealing with labor-management relations (the Taft-Hartley Act), namely (1) extortionate picketing, and (2) prohibited employer payments to labor union officials.

Employee Retirement Income Security Act

Under the 1975 ERISA agreement between Justice and Labor, Labor investigates criminal matters involving violations of ERISA's reporting and disclosure provisions. Justice investigates criminal matters related to ERISA prohibitions against (1) certain persons holding office and (2) interference with the right of a participant or beneficiary by fraud or coercion. Justice also investigates related offenses under title 18, such as theft or embezzlement from employee benefit plans; false statements and concealment of facts in relation to documents required by ERISA; and offer, acceptance, or solicitation to influence operations of employee benefit plans.

The Comprehensive Crime Control Act of 1984 authorized Labor to investigate criminal violations related to the regulation of employee pension and welfare plans without delegation by Justice. Accordingly, the FBI and Labor have concurrent investigative jurisdiction over violations that were previously addressed by the 1975 ERISA agreement.

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